

REMARKS

Favorable reconsideration of this application is requested in view of the above amendments and in light of the following remarks and discussion.

Claims 1-10 and 12-18 are pending in the application. Claims 1, 2, and 6 have been presently amended. Claim 11 has been canceled without prejudice. No new matter is added.

In the outstanding Office Action, Claims 1-4, 6-7, 11-15, and 17-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Masuda et al (U.S. Pat. Appl. Publ. No.2001/0015175) in view of Herchen et al (US 6,264,852). Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Masuda et al and Herchen et al in view of Ueda et al (JP 08107102). Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Masuda et al and Herchen et al in view of Ookawa et al (Japanese Laid Open Patent Publication No. 20003-49070). Claims 10 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Masuda et al and Herchen et al in view of Howald et al (U.S. Pat. No. 6,074,516).

Independent Claims 1, 2, and 6 presently define a vacuum vessel that houses an article to be plasma-treated in a plasma region and that includes a lower electrode that is provided inside the vacuum vessel and onto which is placed the article to be plasma-treated. An upper electrode main body is provided above the lower electrode to form the plasma region in the vacuum vessel. The upper electrode main body has formed therein an opening through which passes light for detecting an extent of progress of plasma treatment of the article to be treated in the plasma region. An upper electrode cover is joined to a lower surface of the upper electrode main body and faces the plasma region. The upper electrode cover has formed therein a hole at a location corresponding to the opening of the upper electrode main body.

In these claims, a transparent window member that is made of a transparent member which is a separate body to the upper electrode cover, has a shape insertable into the hole of

the upper electrode cover, and is retainably and upwardly removably fitted in the hole of the upper electrode cover. The transparent window member is disposed to face the plasma region and has a part through which the light for detecting an extent of progress of plasma treatment passes. The transparent window member comprises a *solid piece* having no through hole through which gas passes.

The Office Action on page 3 acknowledges that Masuda et al fail to teach a transparent window member having no through hole. The Office Action asserts and the Advisory Action maintains that it is conventionally known in the art that a transparent member without holes is an alternative and equivalent structure to a transparent window member with holes since both function the same to transmit light.

However, a transparent window comprising a solid piece having no through hole through which gas passes, as presently claimed, is *not equivalent* to a transparent window with holes where gas would pass.

Furthermore, the examiner's attention is invited to consider In re Gurley, 31 USPQ2d 1130 (Fed. Cir. 1994) which stated that:

A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be *discouraged from following the path set out in the reference, or would be led in a direction divergent* from the path that was taken by the applicant. The degree of teaching away will of course depend on the particular facts; in general, a reference will teach away if it suggests that the line of development flowing from the reference's disclosure is *unlikely to be productive* of the result sought by the applicant. [Emphasis added.]

In the present case, one skilled in the art at the time of the present invention would not have been motivated to combine the transparent window member of Herchen et al having no through hole with the apparatus of Masuda et al because the window of Masuda et al having through holes in which gas can pass leads one in divergent direction from both Herchen et al and the claimed invention. Accordingly, Masuda et al teach away from both Herchen et al

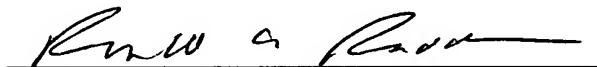
and the claimed invention. Hence, the combination of Masuda et al and Herchen et al is improper, and the 35 U.S.C. § 103(a) rejection should be removed.

Hence, for these reasons, independent Claims 1, 2, and 6 (and the claims dependent therefrom) patentably define over the applied references.

Consequently, for the reasons discussed in detail above, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. Therefore, a Notice of Allowance is earnestly solicited.

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